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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,492	01/27/2004	Scott C. Casebolt	221P128US01	6255
7590	11/07/2005		EXAMINER	
IPLM Group, P.A. Post Office Box 18455 Minneapolis, MN 55418			CHIN SHUE, ALVIN C	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,492	CASEBOLT ET AL.	
	Examiner Alvin C. Chin-Shue	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19, 25, 26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,8,11-16,19,25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Baker or Tomioka et al. in view of Skyba. Baker and Tomioka show the claimed device with the exception of the securing member and the concrete form. Skyba shows the use of a ratchet strap as a securing member for anchoring a lower portion of a ladder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide either Baker or Tomioka with a securing member, as taught by Skyba, for anchoring a lower portion of their ladders. Furthermore, to use their ladders to provide safety to a user adjacent the claimed conventional concrete form, would have been an obvious mechanical expediency by the substituted use of their devices on known vertical support structures desired to have access thereto.

Claims 5,15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Baker or Tomioka and Skyba, as applied to claim 1 above, and further in view of Parker. Parker shows a self-retracting lifeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made

to provide either Baker or Tomioka with a self-retracting lifeline, as taught by Parker, in lieu of their lifelines, to enhance the safety of a user.

Claims 1-4,6-10,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swankie or Presson in view of Skyba and Tomioka et al. Swankie and Presson show the claimed device with the exception of the securing member and lifeline. Skyba shows the use of a ratchet strap as a securing member. Tomioka at A shows a lifeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide either Swankie or Presson with a securing member, as taught by Skyba, for anchoring a lower portion of their ladders, and a lifeline, as taught by Tomioka, as a safety means for a user. Furthermore, to use their ladders to provide safety to a user adjacent the claimed conventional concrete form, would have been an obvious mechanical expediency by the substituted use of their devices on known vertical support structures desired to have access thereto.

Claims 5,15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swankie or Presson, Skyba and Tomioka, as applied to claims 1 and 16 above, and further in view of Parker. Parker shows a self-retracting lifeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide either Swankie or Presson with a self-retracting lifeline, as

taught by Parker, for the lifeline as taught by Tomioka, to enhance the safety of a user.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is

571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue  
Examiner  
Art Unit 3634

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